

REMARKS

By this amendment, claims 6, 20, and 68 have been amended. Claims 1-27 and 63-75 are pending in the application.

Applicants acknowledge with appreciation the indication of allowability regarding claims 6-7, 20-21, and 68-69 if rewritten in independent form. Claims 6-7, 20-21, and 68-69 have been so rewritten.

In response to paragraph 1 of the Office Action, the Examiner's attention is directed to the specification amendment at page 2 of the First Preliminary Amendment filed January 15, 2004 and incorporating by reference the entirety of Application Serial No. 10/373,785, of which this application is identified in the amendment as a divisional.

Claims 1-3, 5, 8-9, 13-17, 19, 22-23, and 27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Uya (US 2003/0122209). Applicants respectfully traverse this rejection.

Claims 1, 14, and 15 recite, *inter alia*, "[a] CMOS imaging device, comprising: ... a plurality of photoconductors ...; and at least one fluidic material between each said photoconductor." (Emphasis added.) Uya does not disclose this limitation. Uya discloses "[a] high refractive index transmissive material layer 21 is filled in the opening defined by the silicon oxide film 16 ..., the high refractive index transmissive material layer 21 has an upward convex lens shape." Uya paragraph 0049. The high refractive index transmissive material layer 21 is made of silicon nitride, carbon material of a diamond-like structure, tantalum oxide, or other solid materials with a high melting point. Uya paragraph 0039. Since Uya does not disclose all the limitations of claims 1, 14, and 15, claims 1, 14, and 15 are not anticipated by Uya. Claims 2-3, 5, 8-9, and 13 depend from claim 1 and are patentable at least for the reasons mentioned

above. Claims 16-17, 19, 22-23, and 27 depend from claim 15 and are patentable at least for the reasons mentioned above. Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of these claims be withdrawn.

Claims 4, 10-12, 18, 24-26, 63-67, and 70-75 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Uya (US 2003/0122209) in view of Mikolas (US 2003/0136759). Applicants respectfully traverse this rejection.

In order to establish a *prima facie* case of obviousness “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. §2142. Neither Uya nor Mikolas, even when considered in combination, teach or suggest all limitations of claims 1, 15, or 63. Claims 4 and 10-12 depend from claim 1. Claims 18 and 24-26 depend from claim 15. Claims 1, 15, and 63 recite, *inter alia*, “a plurality of photoconductors ...; and at least one fluidic material between each said photoconductor.” (Emphasis added.) As addressed above relating to the patentability of claims 1, 14, and 15, Mikolas, like Uya, does not teach or suggest the limitation of “forming at least one fluidic material between each of said photoconductors,” recited in claim 63. Since Uya and Mikolas do not teach or suggest all of the limitations of claims 1, 15, and 63, dependent claims 4 and 10-12, dependent claims 18 and 24-26, independent claim 63 and dependent claims 64-67 and 70-75 are not obvious over the cited references. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 4, 10-12, 18, 24-26, 63-67, and 70-75.

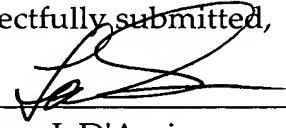
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In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

Rachael Lea Leventhal

Registration No.: 54,266

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant